

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

17w/1184

TREVOR LUCAS,

(In the space above enter the full name(s) of the plaintiff(s).)

-against-

FEDERAL BUREAU OF PRISONS and
KETTISHA MANSON-WALKER,

COMPLAINT

Pursuant to Bivens v. Six
Unknown Federal Narcotics
Agents, 403 U.S. 388 (1971)
and the Administrative
Procedures Act, 5 U.S.C. § 701
Jury Trial: ☐ Yes ☒ No

(check one)

(In the space above enter the full name(s) of the defendant(s). If you cannot fit the names of all of the defendants in the space provided, please write "see attached" in the space above and attach an additional sheet of paper with the full list of names. The names listed in the above caption must be identical to those contained in Part I. Addresses should not be included here.)

RECEIVED
SDNY DOCKET UNIT
2017 FEB -8 PM 3:23

I. Parties in this complaint:

- A. List your name, identification number, and the name and address of your current place of confinement. Do the same for any additional plaintiffs named. Attach additional sheets of paper as necessary.

Plaintiff Name Trevor Lucas
ID # 07200-090
Current Institution FCI Otisville
Address P.O. Box 1000
Otisville, NY 10963-1000

- B. List all defendants' names, positions, places of employment, and the address where each defendant may be served. Make sure that the defendant(s) listed below are identical to those contained in the above caption. Attach additional sheets of paper as necessary.

Defendant No. 1 Name Federal Bureau of Prisons Shield # _____
Where Currently Employed (federal agency)
Address 320 1st Street, N.W.
Washington, DC 20534

Defendant No. 2 Name Kettisha Manson-Walker Shield # _____
 Where Currently Employed Case Manager, FCI Otisville
 Address P.O. Box 600
 Otisville, NY 10963-0600

Defendant No. 3 Name _____ Shield # _____
 Where Currently Employed _____
 Address _____

Defendant No. 4 Name _____ Shield # _____
 Where Currently Employed _____
 Address _____

Defendant No. 5 Name _____ Shield # _____
 Where Currently Employed _____
 Address _____

II. Statement of Claim:

State as briefly as possible the facts of your case. Describe how each of the defendants named in the caption of this complaint is involved in this action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. Attach additional sheets of paper as necessary.

A. In what institution did the events giving rise to your claim(s) occur?
FCI Otisville - Otisville, New York

B. Where in the institution did the events giving rise to your claim(s) occur?
Claim involves an administrative decision.

C. What date and approximate time did the events giving rise to your claim(s) occur?
July 18, 2016

What
happened
to you?

Who did
what?

Was
anyone
else
involved?

Who else
saw what
happened?

D. Facts: Plaintiff seeks review of an agency action alleged to be arbitrary, capricious, and unreasonable. In addition, Plaintiff alleges constitutional violations. Plaintiff is currently serving a term of imprisonment in the Federal Bureau of Prisons ("BOP") at FCI Otisville. Plaintiff has been confined at said facility since sometime in 2011. Inmates confined in the BOP are afforded limited e-mail access through TRULINCS, unless restricted from using the system. The BOP has adopted Program Statement 4500.11, which among other things details regulations applicable to TRULINCS, including the basis upon which an inmate may be restricted from using the system. The Program Statement provides that an inmate should be restricted only "when absolutely necessary to protect the safety, security, or orderly running of the correctional facility, or the protection of the public or staff." Only the Warden of a facility may impose such a restriction, and that authority may not be delegated by the Warden to any staff member below Associate Warden. Between the time of Plaintiff's arrival at FCI Otisville and July 18, 2016, Plaintiff was permitted to use TRULINCS and regularly did so without any incidents of misconduct. On July 18, 2016, Defendant Walker restricted Plaintiff from using the system any further. Although the written notice provided to Plaintiff indicates the action was taken due to the nature of his offense, Defendant Walker actually took the action in retaliation for

III. Injuries: [continued on next page]

If you sustained injuries related to the events alleged above, describe them and state what medical treatment, if any, you required and received. As a result of arbitrary and capricious action by Defendant Walker, Plaintiff has been deprived of access to TRULINCS e-mail, which Plaintiff contends constitutes an abuse of discretion by the BOP. In addition, Plaintiff's First, Fifth, and Fourteenth Amendment rights under the Constitution have been violated, in that the action taken was intended to interfere with lawful speech, was taken contrary to BOP policy, and has not been equally applied to similarly situated inmates within the BOP.

IV. Exhaustion of Administrative Remedies:

The Prison Litigation Reform Act ("PLRA"), 42 U.S.C. § 1997e(a), requires that "[n]o action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted." Administrative remedies are also known as grievance procedures.

A. Did your claim(s) arise while you were confined in a jail, prison, or other correctional facility?

Yes X No

Plaintiff seeking copies of various documents contained in his BOP central file. There was, in fact, no reasonable basis to impose the restriction, given that Plaintiff had been permitted to use the system for the previous five years without any incident of misconduct. In addition, Defendant Walker acted without authority to impose the restriction under BOP policy, since she is neither the Warden of the facility, nor an Associate Warden to whom the Warden has delegated such authority. Defendant Walker's action, as an employee of the BOP, constitutes an adverse agency action subject to review under 5 U.S.C. § 701, et seq. Further, Defendant Walker's action violates Plaintiff's First, Fifth, and Fourteenth Amendment rights under the United States Constitution.

If YES, name the jail, prison, or other correctional facility where you were confined at the time of the events giving rise to your claim(s).

FCI Otisville

- B. Does the jail, prison or other correctional facility where your claim(s) arose have a grievance procedure?

Yes X No Do Not Know

- C. Does the grievance procedure at the jail, prison or other correctional facility where your claim(s) arose cover some or all of your claim(s)?

Yes X No Do Not Know

If YES, which claim(s)? _____

- D. Did you file a grievance in the jail, prison, or other correctional facility where your claim(s) arose?

Yes X No

If NO, did you file a grievance about the events described in this complaint at any other jail, prison, or other correctional facility?

Yes _____ No _____

- E. If you did file a grievance, about the events described in this complaint, where did you file the grievance?

FCI Otisville

1. Which claim(s) in this complaint did you grieve? TRULINCS e-mail
restriction improperly imposed.

2. What was the result, if any? Denied by Acting Warden D.S. Kulick
on September 14, 2016.

3. What steps, if any, did you take to appeal that decision? Describe all efforts to appeal to the highest level of the grievance process. Appeal to Regional Director denied on October 25, 2016. Appeal to Central Office denied by National Inmate Appeals Administrator on December 6, 2016.
As a result, all administrative remedies have been exhausted.

- F. If you did not file a grievance:

1. If there are any reasons why you did not file a grievance, state them here:

2. If you did not file a grievance but informed any officials of your claim, state who you informed.

when and how, and their response, if any: _____

G. Please set forth any additional information that is relevant to the exhaustion of your administrative remedies. _____

Note: You may attach as exhibits to this complaint any documents related to the exhaustion of your administrative remedies.

V. Relief:

State what you want the Court to do for you (including the amount of monetary compensation, if any, that you are seeking and the basis for such amount). Plaintiff seeks a declaration that the agency action taken violates the Administrative Procedures Act and Plaintiff's constitutional rights. Plaintiff further seeks an injunction directing the Federal Bureau of Prisons to reinstate his access to TRULINCS e-mail. Plaintiff requests an award of costs and any attorney's fees incurred, but no monetary damages are sought.

VI. Previous lawsuits:

A. Have you filed other lawsuits in state or federal court dealing with the same facts involved in this action?

Yes _____ No X

On
these
claims

- B. If your answer to A is YES, describe each lawsuit by answering questions 1 through 7 below. (If there is more than one lawsuit, describe the additional lawsuits on another sheet of paper, using the same format.)

1. Parties to the previous lawsuit:

Plaintiff _____

Defendants _____

2. Court (if federal court, name the district; if state court, name the county) _____

3. Docket or Index number _____

4. Name of Judge assigned to your case _____

5. Approximate date of filing lawsuit _____

6. Is the case still pending? Yes _____ No _____

If NO, give the approximate date of disposition _____

7. What was the result of the case? (For example: Was the case dismissed? Was there judgment in your favor? Was the case appealed?) _____

On
other
claims

- C. Have you filed other lawsuits in state or federal court otherwise relating to your imprisonment?

Yes _____ No X

- D. If your answer to C is YES, describe each lawsuit by answering questions 1 through 7 below. (If there is more than one lawsuit, describe the additional lawsuits on another piece of paper, using the same format.)

1. Parties to the previous lawsuit:

Plaintiff _____

Defendants _____

2. Court (if federal court, name the district; if state court, name the county) _____

3. Docket or Index number _____

4. Name of Judge assigned to your case _____

5. Approximate date of filing lawsuit _____

6. Is the case still pending? Yes _____ No _____

If NO, give the approximate date of disposition _____

7. What was the result of the case? (For example: Was the case dismissed? Was there judgment in your favor? Was the case appealed?) _____

I declare under penalty of perjury that the foregoing is true and correct.

Signed this 30 day of January, 2017.

Signature of Plaintiff



Inmate Number

Trevor Lucas

Institution Address

Reg. No. 07200-090

FCI Otisville

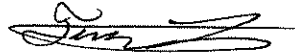
P.O. Box 1000

Otisville, NY 10963-1000

Note: All plaintiffs named in the caption of the complaint must date and sign the complaint and provide their inmate numbers and addresses.

I declare under penalty of perjury that on this 30 day of January, 2017, I am delivering this complaint to prison authorities to be mailed to the *Pro Se* Office of the United States District Court for the Southern District of New York.

Signature of Plaintiff:



Not Applicable - mailed via
third-party with required
filing fee included.

JS-44C/SDNY
REV. 5/2010

CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for use of the Clerk of Court for the purpose of initiating the civil docket sheet.

PLAINTIFFS

Trevor Lucas

ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

Pro Se

DEFENDANTS

Federal Bureau of Prisons and
Kettisha Manson-Walker

ATTORNEYS (IF KNOWN)

CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE)
(DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY)

Has this or a similar case been previously filed in SDNY at any time? No? ☒ Yes? ☐ Judge Previously Assigned

If yes, was this case Vol. ☐ Invol. ☐ Dismissed. No ☐ Yes ☐ If yes, give date _____ & Case No. _____

(PLACE AN [X] IN ONE BOX ONLY)

NATURE OF SUIT

ACTIONS UNDER STATUTES

CONTRACT <input type="checkbox"/> 110 INSURANCE <input type="checkbox"/> 120 MARINE <input type="checkbox"/> 130 MILLER ACT <input type="checkbox"/> 140 NEGOTIABLE INSTRUMENT <input type="checkbox"/> 150 RECOVERY OF OVERPAYMENT & ENFORCEMENT OF JUDGMENT <input type="checkbox"/> 151 MEDICARE ACT <input type="checkbox"/> 152 RECOVERY OF DEFAULTED STUDENT LOANS (EXCL VETERANS) <input type="checkbox"/> 153 RECOVERY OF OVERPAYMENT OF VETERAN'S BENEFITS <input type="checkbox"/> 160 STOCKHOLDERS SUITS <input type="checkbox"/> 190 OTHER CONTRACT <input type="checkbox"/> 195 CONTRACT PRODUCT LIABILITY <input type="checkbox"/> 196 FRANCHISE	PERSONAL INJURY <input type="checkbox"/> 310 AIRPLANE <input type="checkbox"/> 315 AIRPLANE PRODUCT LIABILITY <input type="checkbox"/> 320 ASSAULT, LIBEL & SLANDER <input type="checkbox"/> 330 FEDERAL EMPLOYERS' LIABILITY <input type="checkbox"/> 340 MARINE <input type="checkbox"/> 345 MARINE PRODUCT LIABILITY <input type="checkbox"/> 350 MOTOR VEHICLE <input type="checkbox"/> 355 MOTOR VEHICLE PRODUCT LIABILITY <input type="checkbox"/> 360 OTHER PERSONAL INJURY	TORTS PERSONAL INJURY <input type="checkbox"/> 352 PERSONAL INJURY - MED MALPRACTICE <input type="checkbox"/> 365 PERSONAL INJURY PRODUCT LIABILITY <input type="checkbox"/> 368 ASBESTOS PERSONAL INJURY PRODUCT LIABILITY PERSONAL PROPERTY <input type="checkbox"/> 370 OTHER FRAUD <input type="checkbox"/> 371 TRUTH IN LENDING <input type="checkbox"/> 380 OTHER PERSONAL PROPERTY DAMAGE <input type="checkbox"/> 385 PROPERTY DAMAGE PRODUCT LIABILITY	FORFEITURE/PENALTY <input type="checkbox"/> 510 AGRICULTURE <input type="checkbox"/> 620 OTHER FOOD & DRUG <input type="checkbox"/> 625 DRUG RELATED SEIZURE OF PROPERTY <input type="checkbox"/> 630 21 USC 881 LIQUOR LAWS <input type="checkbox"/> 640 RR & TRUCK <input type="checkbox"/> 650 AIRLINE REGS <input type="checkbox"/> 660 OCCUPATIONAL SAFETY/HEALTH <input type="checkbox"/> 663 OTHER LABOR <input type="checkbox"/> 710 FAIR LABOR STANDARDS ACT <input type="checkbox"/> 720 LABOR/MGMT RELATIONS <input type="checkbox"/> 730 LABOR/MGMT REPORTING & DISCLOSURE ACT <input type="checkbox"/> 740 RAILWAY LABOR ACT <input type="checkbox"/> 790 OTHER LABOR LITIGATION <input type="checkbox"/> 791 EMPL RET INC SECURITY ACT	BANKRUPTCY <input type="checkbox"/> 422 APPEAL <input type="checkbox"/> 423 WITHDRAWAL <input type="checkbox"/> 423 28 USC 158 <input type="checkbox"/> 423 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 COPYRIGHTS <input type="checkbox"/> 830 PATENT <input type="checkbox"/> 840 TRADEMARK SOCIAL SECURITY <input type="checkbox"/> 851 HIA (1395f) <input type="checkbox"/> 852 BLACK LUNG (923) <input type="checkbox"/> 853 DIWC/DIWW (405(g)) <input type="checkbox"/> 854 SSID TITLE XVI <input type="checkbox"/> 855 RSI (405(g))	OTHER STATUTES <input type="checkbox"/> 400 STATE REAPPORTIONMENT <input type="checkbox"/> 410 ANTITRUST <input type="checkbox"/> 430 BANKS & BANKING <input type="checkbox"/> 450 COMMERCE <input type="checkbox"/> 460 DEPORTATION <input type="checkbox"/> 470 RACKETEER INFLUENCED & CORRUPT ORGANIZATION ACT (RICO) <input type="checkbox"/> 480 CONSUMER CREDIT <input type="checkbox"/> 490 CABLE/SATELLITE TV <input type="checkbox"/> 810 SELECTIVE SERVICE <input type="checkbox"/> 850 SECURITIES/COMMODITIES/EXCHANGE <input type="checkbox"/> 875 CUSTOMER CHALLENGE <input type="checkbox"/> 890 12 USC 3410 <input type="checkbox"/> 890 OTHER STATUTORY ACTIONS <input type="checkbox"/> 891 AGRICULTURAL ACTS <input type="checkbox"/> 892 ECONOMIC STABILIZATION ACT <input type="checkbox"/> 893 ENVIRONMENTAL MATTERS <input type="checkbox"/> 894 ENERGY ALLOCATION ACT <input type="checkbox"/> 895 FREEDOM OF INFORMATION ACT <input type="checkbox"/> 900 APPEAL OF FEE DETERMINATION UNDER EQUAL ACCESS TO JUSTICE <input type="checkbox"/> 950 CONSTITUTIONALITY OF STATE STATUTES
REAL PROPERTY <input type="checkbox"/> 210 LAND CONDEMNATION <input type="checkbox"/> 220 FORECLOSURE <input type="checkbox"/> 230 RENT LEASE & EJECTMENT <input type="checkbox"/> 240 TORTS TO LAND <input type="checkbox"/> 245 TORT PRODUCT LIABILITY <input type="checkbox"/> 290 ALL OTHER REAL PROPERTY	ACTIONS UNDER STATUTES CIVIL RIGHTS <input type="checkbox"/> 441 VOTING <input type="checkbox"/> 442 EMPLOYMENT <input type="checkbox"/> 443 HOUSING/ACCOMMODATIONS <input type="checkbox"/> 444 WELFARE <input type="checkbox"/> 445 AMERICANS WITH DISABILITIES - EMPLOYMENT <input type="checkbox"/> 446 AMERICANS WITH DISABILITIES - OTHER <input type="checkbox"/> 440 OTHER CIVIL RIGHTS	PRISONER PETITIONS <input type="checkbox"/> 510 MOTIONS TO VACATE SENTENCE <input type="checkbox"/> 530 20 USC 2255 <input type="checkbox"/> 530 HABEAS CORPUS <input type="checkbox"/> 535 DEATH PENALTY <input type="checkbox"/> 540 MANDAMUS & OTHER <input checked="" type="checkbox"/> 550 CIVIL RIGHTS <input type="checkbox"/> 555 PRISON CONDITION	IMMIGRATION <input type="checkbox"/> 462 NATURALIZATION APPLICATION <input type="checkbox"/> 463 HABEAS CORPUS-ALIEN DETAINEE <input type="checkbox"/> 465 OTHER IMMIGRATION ACTIONS	FEDERAL TAX SUITS <input type="checkbox"/> 870 TAXES (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS-THIRD PARTY <input type="checkbox"/> 26 USC 7608	

Check if demanded in complaint:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DO YOU CLAIM THIS CASE IS RELATED TO A CIVIL CASE NOW PENDING IN S.D.N.Y.? IF SO, STATE:

DEMAND \$ _____ OTHER _____

JUDGE _____

DOCKET NUMBER _____

Check YES only if demanded in complaint
JURY DEMAND: ☐ YES ☒ NO

NOTE: Please submit at the time of filing an explanation of why cases are deemed related.

2017 FEB -8 PM 3:23

SDNY DOCKET ONLY

(PLACE AN x IN ONE BOX ONLY)

ORIGIN

- ☒ 1 Original Proceeding
- ☐ 2a. Removed from State Court
- ☐ 2b. Removed from State Court AND at least one party is pro se.
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from (Specify District)
- ☐ 6 Multidistrict Litigation
- ☐ 7 Appeal to District Judge from Magistrate Judge Judgment

(PLACE AN x IN ONE BOX ONLY)

BASIS OF JURISDICTION

- ☐ 1 U.S. PLAINTIFF ☐ 2 U.S. DEFENDANT ☒ 3 FEDERAL QUESTION (U.S. NOT A PARTY) ☐ 4 DIVERSITY

IF DIVERSITY, INDICATE
CITIZENSHIP BELOW.
(28 USC 1322, 1441)

CITIZENSHIP OF PRINCIPAL PARTIES (FOR DIVERSITY CASES ONLY)

(Place an [X] in one box for Plaintiff and one box for Defendant)

CITIZEN OF THIS STATE	PTF DEF [] []	CITIZEN OR SUBJECT OF A FOREIGN COUNTRY	PTF DEF [] []	INCORPORATED and PRINCIPAL PLACE OF BUSINESS IN ANOTHER STATE	PTF DEF [] []
CITIZEN OF ANOTHER STATE	[] []	INCORPORATED or PRINCIPAL PLACE OF BUSINESS IN THIS STATE	[] []	FOREIGN NATION	[] []

PLAINTIFF(S) ADDRESS(ES) AND COUNTY(IES)

DEFENDANT(S) ADDRESS(ES) AND COUNTY(IES)

DEFENDANT(S) ADDRESS UNKNOWN

REPRESENTATION IS HEREBY MADE THAT, AT THIS TIME, I HAVE BEEN UNABLE, WITH REASONABLE DILIGENCE, TO ASCERTAIN THE RESIDENCE ADDRESSES OF THE FOLLOWING DEFENDANTS:

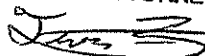
Check one: THIS ACTION SHOULD BE ASSIGNED TO:
(DO NOT check either box if this a PRISONER PETITION.)

☐ WHITE PLAINS☐ MANHATTAN

DATE

1 / 30 / 17

SIGNATURE OF ATTORNEY OF RECORD



RECEIPT #

ADMITTED TO PRACTICE IN THIS DISTRICT

☒ NO Pro Se Non-attorney☐ YES (DATE ADMITTED Mo. ____ Yr. ____)

Attorney Bar Code #

Magistrate Judge is to be designated by the Clerk of the Court.

Magistrate Judge

by J. Krajick, Clerk of Court by _____ is so Designated.

Deputy Clerk, DATED _____

UNITED STATES DISTRICT COURT (NEW YORK SOUTHERN)

January 30, 2017

Clerk of U.S. District Court
Attn: Pro Se Office, Room 230
500 Pearl Street
New York, NY 10007

Dear Sir/Madam:

Enclosed please find the following documents which are submitted for the purpose of commencing a new civil action:

1. Civil Cover Sheet; and
2. Complaint.

Also enclosed please find payment in the amount of \$400.00 for the required filing fee.

Thank you for your assistance with this matter.

Very truly yours,



Trevor Lucas
Reg. No. 07200-090
FCI Otisville
P.O. Box 1000
Otisville, NY 10963-1000

enclosures

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